



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,038	10/15/2001	Timothy W. Dygert	2167.017US1	2537

21186 7590 08/18/2008  
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.  
P.O. BOX 2938  
MINNEAPOLIS, MN 55402

EXAMINER
----------

BROMELL, ALEXANDRIA Y

ART UNIT	PAPER NUMBER
----------	--------------

2167

MAIL DATE	DELIVERY MODE
-----------	---------------

08/18/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/976,038	<b>Applicant(s)</b> DYGERT ET AL.	
	<b>Examiner</b> ALEXANDRIA Y. BROMELL	<b>Art Unit</b> 2167	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6-11-08</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed May 28, 2008 have been fully considered but they are not persuasive.

Applicant argues that Kaneko does not teach “a memory to store a textual recording name of the recording and indicating data, obtained from said recorded signal output device that can be used for identification of the recording.”

Applicant also argues that Kaneko does not teach “a communication device, occasionally in communication with the remote database, to obtain the textual recording name by sending the indicating data to the remote database.”

Examiner respectfully disagrees all of the allegations as argued. Examiner, in her previous office action, gave a detailed explanation of claimed limitations and pointed out exact locations in the cited prior art.

Examiner is entitled to give claim limitations their broadest reasonable interpretation in light of the specification. See MPEP 2111 [R-1].

#### **Interpretation of Claims-Broadest Reasonable Interpretation**

During patent examination, the pending claims must be ‘given the broadest reasonable interpretation consistent with the specification.’ Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541,550-51 (CCPA 1969).

In response to Applicant's argument that Kaneko does not teach "a memory to store a textual recording name of the recording and indicating data, obtained from said recorded signal output device that can be used for identification of the recording," Examiner respectfully submits that Kaneko teaches this limitation by providing "a memory" (column 2, line 39) "for storing audio information, such as music information or the like, comprising a plurality of unit information, such as a plurality of music compositions or the like" (column 2, lines 39 – 42). Examiner has interpreted this to mean that a memory stores music information, or metadata which includes the music file and some kind of textual identifying data, perhaps song name or author (column 10, lines 42 - 43).

In response to Applicant's argument that Kaneko does not teach "a communication device, occasionally in communication with the remote database, to obtain the textual recording name by sending the indicating data to the remote database," Examiner respectfully submits that Kaneko teaches this limitation by showing that a remote database may be stored on a hard drive, and a communication device such as a portable telephone may input reproduction related information (column 10, lines 41 - 49).

For the above reasons, Examiner believed that the rejection of the last Office action was proper.

***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on June 11, 2008 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michihiro Kaneko et al. (European Patent Application EP1107254A2), hereinafter, 'Kaneko,' in view of Craig Janik (U.S. Patent 7142934), hereinafter, 'Janik.'

With respect to claim 1, Kaneko teaches a recorded signal output device to reproduce a recorded signal from a recording (i.e. a recorded signal is reproduced from a home PC by a recording and reproducing apparatus in a car using electric communication, [0049]), a video output to provide the textual data to the display unit (i.e. display unit shows information like the title of each unit that is reproduced, [0018]), a memory to store a textual recording name of the recording and indicating data obtained from said recorded signal output device, that can be used for identification of the recording (i.e. memory stores audio information, unit information, and music lists, [0011]), a communication device, occasionally in communication with the remote database, to obtain the textual recording name by sending the indicating data to the remote database (i.e. reproducing apparatus in communication with home PC, which sends textual information about audio selection, [0061]), A controller, coupled to said recorded signal output device, said video output, said memory and said communication device, to control said apparatus to play back the recording regardless of whether said communication device is in communication with the remote database (i.e. reproducing apparatus plays back a recording regardless of whether communication device is in communication with remote database because it is reading from a DVD-ROM, so it is playing back independently, [0052]), to query the remote database using the indicating data when communication is established and to supply the textual recording name of the recording from the remote database to said memory (i.e. reproducing system queries home system for textual information about the unit being reproduced, [0031]). Kaneko does not explicitly disclose that the system is repeatedly trying to establish

Art Unit: 2167

communication with the remote database. However, Janik teaches that the system repeatedly try to establish communication with the remote database (i.e. system depends on streaming data from personal computer, column 5, lines 48-50). Kaneko and Janik are analogous art because they are from the problem solving area of allowing a user to listen to and manage a reproduced audio piece from a remote location. At the time of the invention, it would have been obvious to one of ordinary skill in the art, having the teachings of Kaneko and Janik before him or her, to modify the system of Kaneko with the teachings of Janik in order to use Wireless LAN technology specifics to communicate remotely between a home PC and an audio playback device (Kaneko, column 5, lines 7-26). The motivation for doing so would have been to send and receive audio data in a local area network so that it can be played back in an audio playback device (Janik, column 3, lines 20-28). Therefore, it would have been obvious to combine Janik with Kaneko to obtain the invention as specified in the instant claim(s).

With respect to claim 2, Kaneko teaches wherein the communication device is a cellular two-way network interface (i.e. communication device is a portable cellular phone, [0028]).

With respect to claim 3, Kaneko teaches that the communication recording device is located inside a car [0025-0026]. Kaneko does not explicitly disclose that the communication device is an 802.11a network interface. However, Janik teaches wherein the communication device is an 802.11a network interface (i.e. the communication device may use an 802.11a network interface, (column 2, lines 18-20)).

Therefore, the limitations of claim 3 are rejected in the analysis of claim 1 above, and the claim is rejected on that basis.

With respect to claim 4, Kaneko teaches that the communication recording device is located inside a car [0025-0026]. Kaneko does not explicitly disclose that the communication device is an 802.11b network interface. However, Janik teaches wherein the communication device is an 802.11b network interface (i.e. the communication device may use an 802.11a network interface, (column 5, lines 7-26)). Therefore, the limitations of claim 4 are rejected in the analysis of claim 1 above, and the claim is rejected on that basis.

With respect to claim 5, Kaneko teaches an audio reproducing apparatus in a car [0010]. Kaneko does not explicitly disclose that the communication device is a Bluetooth network interface. However, Janik teaches that the portable communication device uses similar Bluetooth technology between a PDA and a wireless LAN adapter (column 13, lines 46-56, and column 6, lines 23-37). Therefore, the limitations of claim 5 are rejected in the analysis of claim 1 above, and the claim is rejected on that basis.



***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Stephen, D. "The Exploratory Workshop On Music Information Retrieval," ACM SIGIR, 1999. Pages 1 – 14.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALEXANDRIA Y. BROMELL whose telephone number is (571)270-3034. The examiner can normally be reached on M-R 6:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John R. Cottingham can be reached on 571-272-7079. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Alexandria Y Bromell  
Examiner, Art Unit 2167  
August 7, 2008

/Shahid Al Alam/  
Primary Examiner, Art Unit 2162